



PATENT
830004-2001.2

MP \$ 13

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Irwin KLEIN et al.

Serial No. : 09/998,346

For : **COMPOSITIONS OF STABLE T3 AND
METHODS OF USE THEREOF**

Filed : November 30, 2001

COPY OF PAPERS
ORIGINALLY FILED

Art Unit : 3762

Confirmation No. : 5520

745 Fifth Avenue
New York, NY 10151

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, DC 20231, on March 7, 2002.

Amy Leahy, Ph.D., Reg. No. 47,739

Name of Applicant, Assignee or Registered Representative

Amy Leahy
Signature

March 7, 2002

Date of Signature

**RESPONSE TO NOTICE OF OMITTED ITEM(S) IN A
NONPROVISIONAL APPLICATION**

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

This is in response to the Notice of Omitted Item(s) in a Non-Provisional Application ("Notice") mailed January 10, 2002. For the reasons that follow, Applicants respectfully request that the Patent and Trademark Office (PTO) accept that the omitted item (Figure 7) was filed in the PTO as of the earliest filing dates of this application, namely: November 30, 2001, the filing date of USSN 09/998,346.

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To any extent a petition is needed for the herein requests, this paper is to serve as such and the Assistant Commissioner is hereby authorized to charge any fee thereof, or for granting the herein requests, or credit any overpayment, to Deposit Account No. 50-0320.

AMENDMENT

Please amend the application without prejudice, without admission and without surrender of subject matter, and without any intention of creating any estoppel as to equivalents as follows:

IN THE DRAWINGS:

After Figure 6, please add Figure 7.

REMARKS

The drawings have been amended to recite the inclusion of Figure 7, without prejudice, without admission, without surrender of subject matter, and without any intention of creating any estoppel.

No new matter is added.

On January 10, 2002, Applicants received the Notice, which indicated that Figure 7 described in the Specification was omitted from the application. Further, the Notice required that Applicants either provide evidence that Figure 7 was in fact deposited with the PTO on November 30, 2001, or supply the missing item together with a supplemental oath or declaration under 37 C.F.R. §§ 1.63 and 1.64.

Thus, submitted herewith is a copy of the Notice of Omitted Item(s), and Figure 7 of the application.

CONCLUSION

Accordingly, it is respectfully requested that this application be accorded a filing date as of the date of receipt by the Patent Office of the original application papers on November 30, 2001.

Respectfully submitted,
FROMMER LAWRENCE & HAUG LLP

By: Amy Leahy
Amy Leahy, Ph.D.
Reg. No. 47,739
Tel (212) 588-0800
Fax (212) 588-0500



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/998,346	11/30/2001	Irwin Klein	830004-2001.2

20999
FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151



CONFIRMATION NO. 5520

FORMALITIES LETTER



OC00000007294739

Date Mailed: 01/10/2002

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

03/20/2002 SZEWDIE1 00000034 500320 09998346

FILED UNDER 37 CFR 1.53(b)

01 FC:205

65.00 CH

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of \$65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is \$ 65.**

The following item(s) appear to have been **omitted** from the application:

- Figure(s) **Figure: 7(A-I)** described in the specification.

I. Should applicant contend that the above-noted omitted item(s) was in fact deposited in the U.S. Patent and Trademark Office (USPTO) with the nonprovisional application papers, a copy of this Notice and a petition (and \$130.00 petition fee (37 CFR 1.17(h))) with evidence of such deposit **must** be filed within **TWO MONTHS** of the date of this Notice. The petition fee will be refunded if it is determined that the item(s) was received by the USPTO.

II. Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the \$130.00 petition fee (37 CFR 1.17(h)) requesting the later filing date **must** be filed within **TWO MONTHS** of the date of this Notice.

III. The failure to file a petition (and petition fee) under the above options (I) or (II) within **TWO MONTHS** of the date of this Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the USPTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) OR (b).** In the absence of a timely filed petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (*i.e.*, the original disclosure of the invention) will include only those application papers present in the USPTO on the date of

deposit.

In the event that applicant elects not to take action pursuant to options (I) or (II) above (thereby constructively electing option (III)), amendment of the specification to renumber the pages consecutively and cancel incomplete sentences caused by any omitted page(s), and/or amendment of the specification to cancel all references to any omitted drawing(s), relabel the drawing figures to be numbered consecutively (if necessary), and correct the references in the specification to the drawing figures to correspond with any relabelled drawing figures, is required. Any drawing changes should be accompanied by a copy of the drawing figures showing the proposed changes in red ink. Such amendment and/or correction to the drawing figures, if necessary, should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.

*A copy of this notice **MUST** be returned with the reply.*

Cen

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Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE